



# California Fair Political Practices Commission

March 21, 1988

Vincent F. Biondo, Jr.  
City Attorney  
City of Carlsbad  
1200 Elm Street  
Carlsbad, CA 92008-1989

Re: Your Request for Advice  
Our File No. A-88-075

Dear Mr. Biondo:

You have written requesting advice on behalf of Councilmember John Mamaux regarding his duties and obligations under the conflict-of-interest provisions of the Political Reform Act (the "Act").<sup>1/</sup>

## QUESTION

If Mr. Mamaux coordinates and puts on a series of lectures for the South Coast Publishing Company for a flat fee, will attendees who pay be considered sources of income to him requiring disclosure or disqualification?

## CONCLUSION

If Mr. Mamaux is paid only a flat fee, which is in no way dependent upon the number of attendees, only the South Coast Publishing Company will be a source of income to Mr. Mamaux. Attendees who pay for the lecture series would not be sources of income to him.

## FACTS <sup>2/</sup>

Mr. Mamaux is a sole proprietor of his business. He has reached a tentative agreement with the South Coast Publishing Company ("South Coast") to coordinate and put on a series of

---

<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

<sup>2/</sup> The facts are taken from your letter and a subsequent telephone conversation on March 15 with Mr. Mamaux which followed my letter to you requesting further information.

Vincent F. Biondo, Jr.  
March 21, 1988  
Page 2

lectures in the vicinity of Carlsbad. His agreement with South Coast calls for him to receive a flat fee for setting up the lectures and putting them on. South Coast publishes daily newspapers covering north San Diego County, an area which includes Carlsbad.

South Coast will publicize the lectures and solicit attendees. Current tentative plans call for a series of eight lectures. Cost for attendance will be \$800 for the first four lectures, with a package price of \$1,400 for the entire series of eight. Tentative speakers for the first four lectures include Malcolm Forbes, Arnold Palmer and the publisher of Barron's magazine.

It is anticipated that businesses in the area will purchase tickets to have their officers or employees attend the lectures. In some cases, a business entity may purchase in excess of \$10,000 worth of tickets in 1988. Some of the business entities may be doing business in Carlsbad.

#### ANALYSIS

The Act requires public officials to disclose sources of income on their annual statements of economic interests. (Section 87207.) It also requires public officials to disqualify themselves from governmental decisions affecting sources of income. (Sections 87100 and 87103.) Councilmember Mamaux is a public official subject to these requirements. (Section 82048.)

As a sole proprietor, any source of income of \$250 or more to his business in a twelve-month period is a source of income to Councilmember Mamaux, if the source of income is situated in or doing business in the jurisdiction. (Section 82030(a).) Thus, South Coast will become a source of income to Councilmember Mamaux if he enters into the agreement with South Coast, since it is doing business in Carlsbad. If South Coast pays him \$10,000 or more in 1988, he must disclose it on Schedule H-2 on his 1988 Statement of Economic Interests. He will also be required to disqualify himself from participating in any decisions materially affecting South Coast.

If the amount of income which Councilmember Mamaux will receive for arranging the lecture series would be affected by the number of attendees, then the attendees who pay a sufficient sum would also be considered to be sources of income to him. However, Councilmember Mamaux has assured me that his fee will be fixed and will in no way be dependent upon the

Vincent F. Biondo, Jr.  
March 21, 1988  
Page 3

number of attendees. In fact, even if South Coast is unable to attract any attendees, his fee will still be paid. Under these circumstances, the attendees will not be sources of income to Councilmember Mamaux. Consequently, the attendees need not be disclosed on his statement of economic interests nor will they become a basis for disqualification.

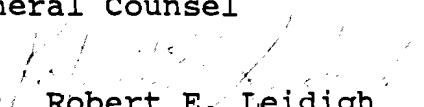
Councilmember Mamaux has also stated that whether the lecture series will be presented again in future years will undoubtedly depend upon its success in its first year. As a result, the number of attendees may well affect the prospects for him receiving future income. However, since he is not involved in soliciting attendees and his income from the series is fixed, we do not believe that the attendees are sources of income to him merely because income from a future series may be affected by the success of this year's series.

Councilmember Mamaux's position is analogous to that of a researcher who is a salaried employee of a company. The researcher is paid to develop a new product line, which others in the company will then market. If the researcher's new product is successful in the marketplace, it enhances the prospects of future employment to develop other new products. A lack of success may well lead to dismissal. However, we would not consider the customers of the company who purchase the product to be sources of income to the salaried researcher. Our conclusion is the same in Councilmember Mamaux's case.

I trust that this letter adequately responds to your questions. If you have questions regarding this letter, I may be reached at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel

By:  Robert E. Leidigh  
Counsel, Legal Division

REL:jaj

# CITY OF CARLSBAD P C

1200 ELM AVENUE  
CARLSBAD, CALIFORNIA 92008  
(619) 434-2891



VINCENT F. BIONDO, JR.  
CITY ATTORNEY

RONALD R. BALL  
ASSISTANT CITY ATTORNEY

February 10, 1988

Fair Political Practices Commission  
P. O. Box 807  
Sacramento, California 95814-0807

This letter is a request for formal written advice made on behalf of Mr. John Mamaux, a member of the City Council of the City of Carlsbad, California. His mailing address is 1343 Basswood Avenue, Carlsbad, California 92008. This request is submitted under your regulation Section 18329 and pursuant to his specific authorization.

The facts which relate to your consideration of the questions presented below are as follows:

Mr. Mamaux is considering accepting employment with South Coast Publishing Company to coordinate and moderate a series of lectures. There may be other special events which he would organize. South Coast publishes daily newspapers covering North San Diego County.

The lectures will be by prominent authorities from the fields of economics, business management, business education, personnel administration, business psychology and business ethics, as well as elected officials from local, state and federal government.

The lectures will be available on an invitation only basis to chief executive officers, general managers, personnel administrators, bank executives, private entrepreneurs and other business leaders in the North County.

The area to be served would be from Del Mar to Oceanside and from the coast to Escondido. Some Rancho Santa Fe residents will be included. This area is similar to the areas covered by newspapers published by South Coast Publishing Company.

To be successful in terms of the relationship of speaker to the audience, it has been determined that the size of the audience shall be limited to no more than 100 persons. The programs will take place once a month.

The South Coast Publishing Company will charge a fee of \$2,400 per year per person attending for this series of lectures. Some companies could purchase more than \$10,000 of tickets in one year. Many of the companies whose employees will attend are located in or do business in Carlsbad. All fees will be collected by South Coast. Mr. Mamaux will receive a monthly stipend from the publishing company and will not be required to directly solicit CEO's to participate. Mr. Mamaux, however, will be available to answer any questions prospective attendees may have about the lectures.

Based on these facts we would appreciate advice on the following questions:

1. Is there any obligation on behalf of Council Member Mamaux to report the names of companies buying tickets to the lectures on his financial disclosure statement?
2. Would the companies doing business in Carlsbad and buying lecture tickets be a source of income to Mr. Mamaux?
3. Under what circumstances would Mr. Mamaux have to not participate in a decision before the City Council involving one of said companies?
4. If the nature of his relationship with South Coast Publishing Company or the way in which he would be paid by them would affect the answers to the preceding three questions, how could this relationship be structured to eliminate any conflict of interest problem and allow Mr. Mamaux to participate in matters affecting said companies?

If you need any additional information in order to provide us with formal written advice pursuant to Government Code Section 83114b please let me know.

Very truly yours,

VINCENT F. BIONDO, JR.  
City Attorney

rmh  
c: Council Member Mamaux



# California Fair Political Practices Commission

March 11, 1988

Vincent F. Biondo, Jr.  
City Attorney  
City of Carlsbad  
1200 Elm Street  
Carlsbad, Calif. 92008-1989

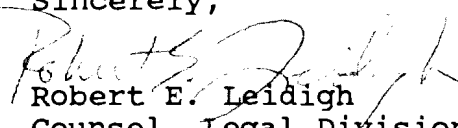
Re: Your Request for Advice;  
Our File No. A-88-075

Dear Mr. Biondo:

I have reviewed your letter requesting advice on behalf of Carlsbad City Councilman John Mamaux. In order to respond to your first three questions, I need more information relating to the fourth question. How will Mr. Mamaux be compensated for coordinating and moderating these events? Will his compensation be in any way dependent upon the number of attendees or will he be paid a straight fee, regardless of the number of attendees? Will there be some minimum number of attendees required before the lecture series will be conducted?

In order to proceed with an analysis of possible sources of income, I need to have a clearer picture of the nature of the employment relationship and his method of compensation. You may wish to review our regulation 2 California Code of Regulations Section 18704.3, dealing with commission income, for some guidance in response to your fourth question. I enclose a copy for your convenience. Please call me if you have any questions regarding the questions posed in this letter. I may be reached at (916) 322-5901.

Sincerely,

  
Robert E. Leidigh  
Counsel, Legal Division

REL:bl



# California Fair Political Practices Commission

February 17, 1988

Vincent F. Biondo, Jr.  
City Attorney  
1200 Elm Avenue  
Carlsbad, CA 92008

Re: 88-075

Dear Mr. Biondo:

Your letter requesting advice under the Political Reform Act was received on February 16, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Robert Leidigh, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths  
General Counsel

DMG:plh  
cc: John Mamaux

John. Marnaux - Carlisle

3/15/88

Will work for a flat fee - program will go on w/o regard to number of attendees - however future programs will depend on whether it is successful

8 programs \$500 for first 4, \$1400 for the entire 8

publisher of paper will extend the invitations (to 100 to 200 people)

flat fee for this year's next years is dependent on success

currently in business as sole proprietorship (since 1972)

(619) 729-5648

Barron's Publisher  
Arnold Palmer  
Malcolm Forbes



82-015

# CITY OF CARLSBAD P C

1200 ELM AVENUE  
CARLSBAD, CALIFORNIA 92008  
(619) 434-2891



VINCENT F. BIONDO, JR.  
CITY ATTORNEY

RONALD R. BALL  
ASSISTANT CITY ATTORNEY

February 10, 1988

Fair Political Practices Commission  
P. O. Box 807  
Sacramento, California 95814-0807

This letter is a request for formal written advice made on behalf of Mr. John Mamaux, a member of the City Council of the City of Carlsbad, California. His mailing address is 1343 Basswood Avenue, Carlsbad, California 92008. This request is submitted under your regulation Section 18329 and pursuant to his specific authorization.

The facts which relate to your consideration of the questions presented below are as follows:

Mr. Mamaux is considering accepting employment with South Coast Publishing Company to coordinate and moderate a series of lectures. There may be other special events which he would organize. South Coast publishes daily newspapers covering North San Diego County.

The lectures will be by prominent authorities from the fields of economics, business management, business education, personnel administration, business psychology and business ethics, as well as elected officials from local, state and federal government.

The lectures will be available on an invitation only basis to chief executive officers, general managers, personnel administrators, bank executives, private entrepreneurs and other business leaders in the North County.

The area to be served would be from Del Mar to Oceanside and from the coast to Escondido. Some Rancho Santa Fe residents will be included. This area is similar to the areas covered by newspapers published by South Coast Publishing Company.

To be successful in terms of the relationship of speaker to the audience, it has been determined that the size of the audience shall be limited to no more than 100 persons. The programs will take place once a month.



# California Fair Political Practices Commission

March 11, 1988

Vincent F. Biondo, Jr.  
City Attorney  
City of Carlsbad  
1200 Elm Street  
Carlsbad, Calif. 92008-1989

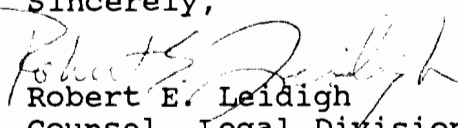
Re: Your Request for Advice;  
Our File No. A-88-075

Dear Mr. Biondo:

I have reviewed your letter requesting advice on behalf of Carlsbad City Councilman John Mamaux. In order to respond to your first three questions, I need more information relating to the fourth question. How will Mr. Mamaux be compensated for coordinating and moderating these events? Will his compensation be in any way dependent upon the number of attendees or will he be paid a straight fee, regardless of the number of attendees? Will there be some minimum number of attendees required before the lecture series will be conducted?

In order to proceed with an analysis of possible sources of income, I need to have a clearer picture of the nature of the employment relationship and his method of compensation. You may wish to review our regulation 2 California Code of Regulations Section 18704.3, dealing with commission income, for some guidance in response to your fourth question. I enclose a copy for your convenience. Please call me if you have any questions regarding the questions posed in this letter. I may be reached at (916) 322-5901.

Sincerely,

  
Robert E. Leidigh  
Counsel, Legal Division

REL:bl